IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 3471 of 2007()

CRA.1013/2006 of SPL.COURT SPE/CBI-II & IV ADDL.SESSIONS COURT, ERNAKULAM

CC.1072/2003 of JUDL.MAGISTRATE OF FIRST CLASS-II, ALUVA

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REVN. PETITIONER: APPELLANT/ACCUSED

K.AJITHKUMAR, AGED 39 YEARS,
PROPRIETOR, M/S. SPARK ASSOCIATES,
VATTAKULAM P.O., ETTUMANOOR, KOTTAYAM DISTRICT.

BY ADV. SRI.K.S.MOHAMED HASHIM

RESPONDENTS: RESPONDENTS/COMPLAINANT

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1. M/S. MODERN FOOD INDUSTRIES,
REGD. OFFICE AT 3RD FLOOR, PALIKA BHAVAN,
SECTOR 13, P.K.PURAM, NEW DELHI AND ITS FACTORY
AT EDAPPALLY, COCHIN-24, REP. BY ITS GENERAL
MANAGER & POWER OF ATTORNEY K.RAVEENDRAN NAIR.

2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY ADV. SRI.A.M.SHAFFIQUE
SRI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR
PUBLIC PROSECUTOR SRI. C.M. NAZAR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 27/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.RAMKUMAR, J.

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Crl.R.P. No. 3471 of 2007

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Dated: 27-11-2007

O R D E R

In this Revision filed under Section 397 read with Sec. 401 Cr.P.C. the petitioner who was the accused in C.C. No. 1072 of 2003 on the file of the J.F.C.M.-II, Aluva challenges the conviction entered and the sentence passed against him for an offence punishable under Sec. 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the Act').

2. I heard the learned counsel for the Revision Petitioner and the learned Public Prosecutor.

3. The learned counsel appearing for the Revision Petitioner re-iterated the contentions in support of the Revision. The courts below have concurrently held that the cheque in question was drawn by the petitioner in favour of the complainant on the drawee bank, that the cheque was validly presented to the bank, that it was dishonoured for reasons which fall under Section 138 of the Act, that the complainant made a demand for payment by a notice in time in accordance with clause (b) of the proviso to Section 138 of the Act and that the Revision Petitioner/accused failed to make the payment within 15 days of receipt of the statutory notice. Both the courts have considered and rejected the defence set up by the revision petitioner while entering the above finding. The said finding has been recorded on an appreciation of the oral and documentary

evidence. I do not find any error, illegality or impropriety in the finding so recorded concurrently by the courts below. The conviction was thus rightly entered against the petitioner.

4. Since the revision petitioner has already deposited a sum of Rs. 2,00,000/- (Rupees two lakhs only) by way of two instalment one of Rs. 65,000/- and the other of Rs. 1,25,000/-, the said amounts shall constitute the fine amount. No other sentence is called for. It shall be open to the first respondent/complainant to withdraw the sum of Rs. 2,00,000/- (Rupees two lakhs only) lying in deposit before the trial court. The sentence imposed by the court below shall stands modified as above.

This Revision is disposed of as above.

V. RAMKUMAR, JUDGE.

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